

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

United States of America,)	Cr. No. 7:98-cr-00798-GRA-1
)	
v.)	<u>ORDER</u>
)	(Written Opinion)
Timothy Dale Crockett.)	
_____)	

This matter comes before the Court on Petitioner's Motion to Adjust Restitution Payments, filed on February 2, 2007. For the following reasons, the Court finds Petitioner's Motion should be denied and dismissed without prejudice.

Plaintiff brings this claim *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *Boag v. MacDougall*, 454 U.S. 364, 365 (1982).

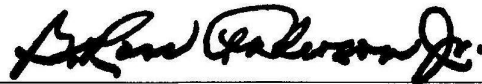
Petitioner asks this Court to suspend his restitution payments until he is transferred to a new facility. According to Petitioner's motion, he is currently being held in "lock-up" and, therefore, is unable to continue his prison employment and earn money towards making his restitution payments. The Petitioner alleges he currently pays \$25 per month of restitution under the Inmate Financial Responsibility Program ("IFRP").

After reviewing Petitioner's motion, this Court finds Petitioner's motion is improper, as it should be filed pursuant to 28 U.S.C. § 2241. The law is well-established that a petition for writ of habeas corpus pursuant to § 2241 is the most proper avenue for challenging the execution of a sentence. *See U.S. v. Little*, 392 F.3d 671, 679 (4th Cir. 2004); *In re Vial*, 115 F.3d 1192, 1194 n.5 (4th Cir. 1997).

A challenge to court-ordered restitution, or to payments collected under the IFRP, is a challenge to the execution of a sentence. Therefore, Petitioner's claim should be filed pursuant to § 2241. The Court advises Petitioner that under § 2241, he must first exhaust his administrative remedies before seeking relief in the federal court. Petitioner may obtain the necessary forms for filing a § 2241 petition from the Clerk's Office of the United States District Court, District of South Carolina, Columbia Division.

IT IS ORDERED that Petitioner's Motion to Adjust Restitution Payments is hereby DENIED and DISMISSED *without prejudice*.

IT IS SO ORDERED.



G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

March 22, 2007

Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

Plaintiff has the right to appeal this Order within sixty (60) days from the date of the entry of this Order, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure. Failure to meet this deadline, as modified by Rule 4 of the Federal Rules of Appellate Procedure, will waive the right to appeal